



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BK31

Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon;

Amendment 14

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 14 to the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) Off Alaska (Salmon FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. Amendment 14 would manage the Cook Inlet EEZ Subarea by applying the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. Amendment 14 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Salmon FMP, and other applicable laws.

DATES: Comments must be received no later than *[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0018, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2021-0018 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendment 14 to the Salmon FMP, the Environmental Assessment/Regulatory Impact Review/Social Impact Analysis prepared for this action (the Analysis), and the draft Finding of No Significant Impact prepared for this action may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Doug Duncan, 907-586-7228 or doug.duncan@noaa.gov.

SUPPLEMENTARY INFORMATION: The Council has submitted Amendment 14 to the Salmon FMP to the Secretary for review. If approved, Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP’s West Area, thereby

bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. Amendment 14 would manage the Cook Inlet EEZ Subarea by applying the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. Amendment 14 is necessary to make the Salmon FMP consistent with the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and to comply with a U.S. Court of Appeals for the Ninth Circuit ruling requiring the Salmon FMP be amended to include the Cook Inlet EEZ area within its fishery management unit. Amendment 14 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Salmon FMP, and other applicable laws.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 14 to the Salmon FMP is available for public review and comment.

The Council prepared, and the Secretary approved, the Salmon FMP under the authority of sections 302(h)(1) and 303(b) of the Magnuson-Stevens Act, 16 U.S.C. 1852(h)(1) and 1853(b)). The Salmon FMP is implemented by Federal regulations governing U.S. fisheries at 50 CFR part 679. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery covered under the FMP.

Amendment 14 to the Salmon FMP was adopted by the Council in December 2020. The Council worked from 2017 to 2020 developing Amendment 14, ultimately concluding that federally managing the Cook Inlet EEZ Subarea by prohibiting

commercial salmon fishing optimized conservation and management of the Cook Inlet salmon fishery when considering the costs and benefits of the available management alternatives, which are described in Section 2 of the Analysis. Important factors in the Council's decision were that maintaining the status quo would be inconsistent with the Magnuson-Stevens Act and the Ninth Circuit ruling, and that the State of Alaska (State) would not accept a delegation of management authority for the Cook Inlet EEZ. The only other viable management alternative considered but not selected by the Council would have created a new Federal management regime for the commercial salmon fishery in the Cook EEZ separate and distinct from the adjacent State water salmon fishery.

Federal management of the Cook Inlet EEZ Subarea through closure of the area to commercial salmon fishing (1) takes the most precautionary approach to minimizing the potential for overfishing, (2) provides the greatest opportunity for maximum harvest from the Cook Inlet salmon fishery, (3) avoids creating new management uncertainty, (4) minimizes regulatory burden to fishery participants, (5) maximizes management efficiency for Cook Inlet salmon fisheries, and (6) avoids the introduction of an additional management jurisdiction into the already complex and interdependent network of Cook Inlet salmon fisheries.

The proposed closure is consistent with the Council's longstanding salmon management policy, which is to facilitate salmon management by the State. As with the existing West Area, this policy would be achieved by prohibiting commercial fishing for salmon in the Cook Inlet EEZ Subarea so that the State can manage Cook Inlet salmon stocks as a unit within State waters. Except for maximum sustained yield (MSY), optimum yield (OY), and annual catch limits (ACL), all West Area management measures would apply to the Cook Inlet EEZ Subarea. MSY and OY would be separately specified for the Cook Inlet salmon fishery, and ACL would be separately specified for the commercial salmon fishery in the Cook Inlet EEZ Subarea, reflecting the

fact that Cook Inlet salmon stocks have historically been harvested in both State and Federal waters. MSY would be established for the Cook Inlet salmon fishery as the maximum amount of harvest possible under the State's escapement goals, which is the largest long-term average catch that can be taken by the fishery under prevailing ecological, environmental conditions and fishery technological characteristics (*e.g.*, gear selectivity), and the distribution of catch among fishery sectors (50 CFR 600.310(e)(1)(i)). The OY range for the Cook Inlet salmon fishery would be the combined catch from all salmon fisheries occurring within Cook Inlet (State and Federal water catch), which results in a post-harvest abundance within the escapement goal range for stocks with escapement goals, and below the historically sustainable average catch for stocks without escapement goals, except when management measures required to conserve weak stocks necessarily limit catch of healthy stocks. Amendment 14 would establish an ACL of zero for the commercial salmon fishery in Cook Inlet EEZ Subarea.

To delineate these separate reference points from those currently specified for the West Area, the Cook Inlet EEZ would be defined as the Cook Inlet EEZ Subarea. Amendment 14 would make no changes to management measures applicable to the remainder of the West Area (*i.e.*, the West Area outside of the Cook Inlet EEZ Subarea). Amendment 14 would not modify State management measures, nor would it preclude the State from adopting additional management measures that could provide additional harvest opportunities for harvesters within State waters.

The Council considered Amendment 14's consistency with the Magnuson-Stevens Act's 10 National Standards and how the Amendment balances competing demands within the National Standards (16 U.S.C. 1851). While all 10 of the National Standards were considered, 5 national standards were particularly relevant to the Council's decision: National Standard 1, National Standard 2, National Standard 3, National Standard 7, and National Standard 8.

By prohibiting commercial salmon harvest in the Cook Inlet EEZ Subarea, Amendment 14 would avoid creating new management uncertainty and reduce the risk of overfishing or foregone yield inherent to an independent Federal management regime that would not be well-suited to respond to in-season data as necessary to adjust harvest levels. Amendment 14 would enable the State to continue managing salmon fisheries within escapement goals, as described in Sections 3.1 and 11 of the Analysis, in order to achieve optimum yield and prevent overfishing, consistent with National Standard 1. The Council continues to recognize that the State is best situated to respond to changing conditions inseason to maximize utilization of salmon stocks under the constraints of weak stock management in a mixed stock fishery, and that the State's escapement goals are based on the best scientific information available, consistent with National Standard 2. Under Amendment 14, all commercial salmon fishing in Cook Inlet would occur in State waters under State management, unifying management of Cook Inlet salmon stocks across their range consistent with National Standard 3. Further, closure of the Cook Inlet EEZ would create the most efficient Cook Inlet salmon management arrangement of the two available management approaches, minimizing direct costs and regulatory burdens on participants and avoiding unnecessary duplication of management measures, consistent with National Standard 7. The Council considered the impact of Amendment 14 on fishing communities and determined that, while fishery benefits may be redistributed among sectors within fishing communities, Amendment 14 would provide for the sustained participation of those communities and, to the extent practicable, minimize adverse economic impacts on such communities within the constraints of conservation and management goals as described in Section 4.7.1.4 of the Analysis, consistent with National Standard 8.

If approved, Amendment 14 would close an area historically used by the Upper Cook Inlet (UCI) drift gillnet fleet. The UCI drift gillnet fleet currently operates in both

State and EEZ waters without specific reference to the boundary and is the only commercial salmon fishery that would be directly regulated by this action. This action would not close, or otherwise modify management of, salmon fishing in State waters where the UCI drift gillnet fleet could continue to operate.

Amendment 14 would amend the Salmon FMP as described below. Most importantly, Section 2.1 “Salmon Management Area” would be modified to remove the “Cook Inlet Area” from the “Areas Excluded from the Salmon Management Area.” This would incorporate the Cook Inlet Area into the rest of the West Area where commercial salmon fishing is prohibited. Further, the Cook Inlet Area would be redefined as the “Cook Inlet EEZ Subarea,” to indicate that it is part of the larger West Area for many management measures but to distinguish it from the West Area for distinct reference points to account for the Cook Inlet EEZ Subarea’s unique history. Section 6.2 “West Area” would be updated to separately specify MSY, OY, and ACL for the Cook Inlet EEZ Subarea, reflecting the fact that Cook Inlet salmon stocks have historically been harvested in both State and Federal waters. Two traditional net fishing areas, the Prince William Sound Area and the Alaska Peninsula Area, would remain excluded from the salmon management area. Figure 1 would be revised to display the Cook Inlet EEZ Subarea within the Salmon Management Area.

Section 2.3.3 “Commercial Salmon Fishery in the West Area” would be modified to describe conditions for the fishery under Amendment 14 and make technical corrections for clarity. The first paragraph would be revised to specify that under Amendment 14, “most of” the West Area has been historically closed to commercial salmon fishing. The third paragraph of the section would be modified to include additional descriptions of historical salmon management under the 1990 version of the Salmon FMP when the traditional net fishing areas were included in the Salmon FMP’s fishery management unit, but not subject to the West Area prohibition on commercial

salmon fishing. A technical clarification to the fourth paragraph of the section would improve the historical description of traditional net fishing areas under Amendment 12. The last change to this section would be the addition of a concluding paragraph describing Amendment 14's reincorporation of the Cook Inlet Area into the West Area, and the application of the West Area prohibition on commercial salmon fishing to the reincorporated Cook Inlet EEZ Subarea.

Several other changes would be made throughout the Salmon FMP for consistency and clarity. Section 5 "Regulation of the Salmon Fisheries" would clarify that closing the "West Area" rather than "EEZ Waters" to commercial salmon fishing enables the State to manage Alaska salmon stocks. A similar clarification would be made in Section 8.2 "Safety" to indicate that commercial salmon fisheries operating in the EEZ are outside of the West Area. Section 6.2 "West Area" would also be updated to specify that under Amendment 14, "most of" the West Area has been closed to commercial salmon fishing since the Salmon FMP's inception in paragraph 2. In Section 8.1.8 "Bycatch Management", a paragraph would be added to explain that no Standardized Bycatch Reporting Methodology (SBRM) is applicable to the West Area because no commercial fisheries are authorized there, but that SBRM would be implemented if commercial salmon fishing were authorized in the future. The Salmon FMP introductory summary section, Section 1.1 "History of the FMP", and Table 1 would be updated with concise language describing conditions established under Amendment 14. Finally, the table of contents and list of figures would be updated to reflect all of these changes to the Salmon FMP.

NMFS is soliciting public comments on proposed Amendment 14 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 14, following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act. All

comments received by the end of the comment period on Amendment 14, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 14. Comments received after that date may not be considered in the approval/disapproval decision on Amendment 14. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 13, 2021.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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